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Japanese agency to reflect industry suggestions in proposed IP guideline amendments - senior official

PaRR Strong evidence

The Japan Fair Trade Commission (JFTC) plans to incorporate industry input for an amendment to the intellectual property (IP) guidelines for the Antimonopoly Act (AMA) and publish them this month, a senior official at the agency told *PaRR*.

"The agency will not automatically invalidate licensors' claims trying to assert [standard essential patents (SEPs) with fair, reasonable and nondiscriminatory (FRAND)-terms from seeking injunctions] as the draft version of the guidelines may have read," he said.

In August, the JFTC received more than 50 comments on its proposal in the amendment to stop SEP holders with FRAND-terms from seeking to injunct licensees.

Industry groups and foreign and domestic manufacturers said the proposed version of the amendment favored licensees too much, as reported.

Even Joshua Wright, who was then a commissioner at the US Federal Trade Commission (FTC), voiced concern over the proposal by the JFTC. In an unprecedented move, Wright became the first sitting FTC commissioner to independently submit comments on an international matter, as reported. Wright said such a move to prohibit FRAND-encumbered SEP holders from seeking injunctive relief may constitute an unlawful exclusion of business activities or unfair trade practice.

The JFTC has also decided to look at the effects on competition of IP cases on a case-by-case basis, the official said. Many comments on the guidelines had called for the JFTC to review matters using a such a case-by-case approach.

by Yuri Nagano in Tokyo

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